

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

		CIVIL ACTION NO. 04CV11024 RWZ
JEANNE DEGAN,)	
)	Jonathan R. Sigel
Plaintiff,)	BBO# 559850
)	
v.)	
)	
GOLDWELL OF NEW ENGLAND,)	
INC. and R.G. SHAKOUR, INC.,)	
)	
Defendants.)	
)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 56.1 of the Local Rules of the United States District Court for the District of Massachusetts, Defendants Goldwell of New England, Inc. (“Goldwell”) and R.G. Shakour, Inc. (“Shakour”) (collectively herein “Defendants”) move the Court to award Summary Judgment in their favor and dismiss the Amended Complaint filed in this matter. As grounds for its Motion, Defendants state as follows:

1. Plaintiff's claims under the Family and Medical Leave Act (FMLA) are time-barred. Accordingly, Defendants are entitled to judgment as a matter of law on Count III of the Amended Complaint.
2. Plaintiff has failed to raise any genuine issue of material fact demonstrating that she is a “qualified handicapped person” entitled to the protections of M.G.L. Chapter 151B. Accordingly, Defendants are entitled to judgment as a matter of law on Counts I and II of the Amended Complaint.

3. Plaintiff has failed to raise any genuine issue of material fact demonstrating that Defendants discriminated or retaliated against her on the basis of any alleged handicap, request for accommodation or request for FMLA leave. Therefore, Defendants are entitled to judgment as a matter of law on Count I (M.G.L. Chapter 151B - Retaliation for Requesting an Accommodation), Count II (M.G.L. Chapter 151B - Discrimination Based on Handicap or Perceived Handicap) and Count III (FMLA Retaliation) of the Amended Complaint.

4. Plaintiff has failed to raise any genuine issue of material fact demonstrating that she was denied a requested FMLA leave or a reasonable accommodation. Therefore, Defendants are entitled to judgment as a matter of law on Count I (M.G.L. Chapter 151B - Failure to Accommodate a Handicap) and Count III (Failure to Provide FMLA Leave) of the Amended Complaint.

5. In support of their Motion, Defendants rely upon the accompanying documents: (a) Memorandum of Law in Support of Defendants' Motion for Summary Judgment; (b) Statement of Undisputed Facts and Legal Elements in Support of Defendants' Motion for Summary Judgment; (c) Affidavit of Mary Garneau; and (d) Affidavit of Andrew Bartfield.

6. True and accurate copies of all referenced documentation, including pertinent portions of deposition transcripts, are filed herewith as attachments to Defendants' Statement of Undisputed Facts and Legal Elements in Support of Defendants' Motion for Summary Judgment.

WHEREFORE, Defendants respectfully request that the Court enter judgment in their favor and dismiss Plaintiff's Amended Complaint in its entirety.

REQUEST FOR ORAL ARGUMENT

Defendants hereby request oral argument on their Motion for Summary Judgment.

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7

The undersigned assert that they have conferred with counsel for Plaintiff in a good faith effort to resolve the instant Motion. Counsel have been unable to resolve or limit the issues raised by the Motion.

GOLDWELL OF NEW ENGLAND, INC.
and R.G. SHAKOUR, INC.

By their attorneys,



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